

JUL 20 2005

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,

PETITIONER,

vs.

DAVID ALAN BOZARTH,

RESPONDENT.

CAUSE NO.: A-1626

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
RECOMMENDED ORDER AND
ORDER

This matter came on for hearing on the 13th day of July, 2005, before Christine M. Neighbors, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Janette Adair. David Alan Bozarth ("Respondent") was not present and was not represented by counsel for this matter. The Rules of Evidence were not requested and the hearing was governed accordingly. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was introduced and the matter taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed Nebraska insurance producer whose registered business address with the Department is Bankers Life and Casualty Company, 13310 Fort Street, Omaha, NE 68164 all times relevant to this matter. Respondent's home address is 1817 N. 155th Avenue, Omaha, NE 68154. (Ex. 2).

2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.

3. On or about June 17, 2005, the Department attempted to serve the Petition and Notice of Hearing on Respondent by certified mail, return receipt requested, at his home address of record. The correspondence was returned to the Department on or about July 11, 2005 after attempts to deliver to Respondent on June 21, 2005, June 25, 2005, and July 6, 2005. The correspondence was subsequently returned to the Department marked "UNCLAIMED." (Ex. 1).

4. On or about July 29, 2004, an investigator with the Department's Consumer Affairs Division wrote to Respondent requesting information regarding an investigation and requiring a response within fifteen days. (Ex. 3). The Department received a response on or about August 20, 2004, purporting to be from Respondent with the initials "cm" signed next to the name. (Ex. 3). It is common practice when an individual signs another's name to correspondence to put his/her initials next to the name signed indicating the signatory did not actually sign the letter. Therefore, the hearing officer finds that Respondent did not respond to the Department's inquiry in the timeframe required pursuant to *Neb. Rev. Stat. §44-1525 (11)*.

5. On or about August 23, 2004, the investigator wrote to Respondent requesting further information about the August 20, 2004 letter and requiring a response within fifteen days. To date, the Department has not received a response from Respondent.

6. On or about October 7, 2004, the administrator of the Consumer Affairs Division sent a letter by certified mail, return receipt requested, to Respondent enclosing a copy of the August 25, 2004 and requesting a response within fifteen business days. On or about October 12, 2004, the return receipt was returned to the Department indicating a

delivery date of October 9, 2004. (Ex. 4). To date, the Department has not received a response from Respondent.

7. On or about January 6, 2004 and January 13, 2004, Respondent submitted applications to Bankers Life and Casualty Company in which the signatures of the applicants were forged. (Ex. 5). As a result, Respondent was terminated from his employment with Bankers Life and Casualty Company effective September 1, 2004. (Ex. 5).

8. Respondent did not notify the Department of his change of business address following his termination on September 1, 2004. (Ex. 2).

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to *Neb. Rev. Stat.* §44-4041 *et seq.*

2. The Department has personal jurisdiction over Respondent.

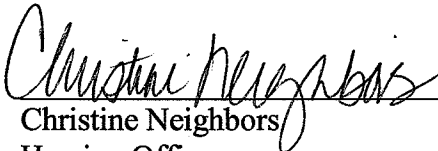
3. Respondent violated *Neb. Rev. Stat.* §44-1525 (11) on three occasions by failing to respond to the Department's requests for information. Respondent violated *Neb. Rev. Stat.* §44-4054 (8) by failing to notify the Department of the change in business address. In addition, Respondent violated *Neb. Rev. Stat.* §44-4059(1)(h) when he submitted applications to an insurer containing forged signatures.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's insurance producer license be revoked.

Dated this 13th day of July, 2005.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


Christine Neighbors
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska Department of Insurance v. David Alan Bozarth, Cause No.: A-1626.

Dated this 20th day of July, 2005.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order and Order was served upon the Respondent by mailing a copy to Respondent at 1817 N. 155th Avenue, Omaha, NE 68154 by certified mail, return receipt requested, and by U.S. Mail, postage prepaid, on this 29th day of July, 2005.

